(1)

Supreme Court, U.S.
FILED

00 657 OCT 20 2000

OFFICE OF THE CLERK

No. 00-

IN THE

Supreme Court of the United States

Angela S. Mayers,

Petitioner,

vs.

Tennessee Board of Regents and
Tennessee State University,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

Angela S. Mayers, *Pro Se*
P. O. Box 281772
Nashville, Tennessee 37228
(615) 865-5572

79 pp

QUESTION(S) PRESENTED

1. How is it that a state court can make ruling and decision on issues pending in this case matter before the Supreme Court, to cut a check to dispense funds, whereby the (Chancery) state court did not have proper jurisdiction? **(P/App. Exs. G** and **H)**

2. Being that the Petitioner has not argued this case in the lower courts on it merits, how is it possible that the Supreme Court is the only venue and first judiciary tribunal to review the merits in this case for a decision and ruling, according to the lower courts decisions and rulings?

3. Which lower court has jurisdiction in this case matter, whereby the merits in the case should have been heard?

4. Why is it that the lower courts have arbitrarily and capriciously refused to affirm jurisdiction in this case matter, and by not doing so, the lower courts have compelled the Petitioner to bring it before the U. S. Supreme Court?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to proceeding in the court whose judgment is the subject of this petition is as follows:

The parties to the proceeding below were:

Petitioner: Angela S. Mayers, *Pro Se*

Respondents: Tennessee Board of Regents and Tennessee State University. Counsel for the Respondents is Leslie Ann Bridges, Senior Counsel, Tennessee Office of the Attorney General.

TABLE OF CONTENTS

OPINIONS BELOW.....x

JURISDICTION.....xii

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....1

STATEMENT OF THE CASE.....5

REASONS FOR GRANTING THE WRIT 7

CONCLUSION.....10

INDEX TO APPENDICES

APPENDIX A 6
ORDER, U.S. 6th Cir., denial of Petitioner/Appellant's Motion to Reconsider, Case No. 00-5123 on 15th, Aug. 00.

APPENDIX B.....x, xii, 6
ORDER, U. S. 6th Cir., denial of En Banc rehearing, Case No. 00-5123 on 28th , Aug 00.

APPENDIX C.....5
ORDER, U. S. 6th Cir., three panel
judge's ruling, Case No. 00-5123,
9th , May 00.

APPENDIX D.....,x, 8
ORDER, U.S. Dist. Court, appealed
to 6th Cir. Ct., Order ruled on out of
jurisdiction, Case No. 3:95-1044,
14th , Jan. 00, Judge Haynes.

APPENDIX E.....5
ORDER, U. S. Dist. Court, Awarding
Petitioner/Plaintiff CRD job sought,
Case No. 3:95-1044, 4th , Aug. 99,
Judge Campbell.

APPENDIX F.....8
ORDER, U. S. Dist. Court lack of
jurisdiction, Case No. 3:95-1044,
4th , Jan. 00, Judge Brown.

APPENDIX G:..... i
ORDER, U. S. Dist. Court , denial
of deposit of funds in Dist. Ct. while
issues are pending appeal, 3rd, Mar.
00, Case No. 3:95-1044, Judge Campbell.

APPENDIX H..... i
ORDER, State Court, ruled on judgment out of jurisdiction and contrary to the U. S. Dist. Ct. Order as cited in P/App. Ex. E, No. 00-332-I, 8th , Sept. 00, Chancellor Kilcrease.

APPENDIX I.....4
CHECKS, issued by the Respondent/-Defendant to State Court, and dispensed by State Court on 8th , Sept. 00, these funds in question are part of issues on appeal, whereas such action is that of a civil/chain of conspiracy to cash funds, Case No. 00-332-I.

PETITIONER'S NOTE TO REVIEWER(S):

For the purpose of this Writ, the Petitioner use the following to denote Exhibits:

See P/App., Ex. ---- denotes (See Petitioner/- Appendix, Exhibit ----); and

See P/Other, Ex. # ---- denotes (See Petitioner/Other, Exhibit # ----).

TABLE OF AUTHORITIES CITED

PAGE NUMBER

CASES

Ruhrgas Ag v. Marathon Oil Co.
(98-470) U. S. Supreme Court
145 F. 3d. 211, reversed and
remanded.....1, 2. 4

STATUTES AND RULES

28 U. S. C. § 1291, § 1292 and § 1295 ..... 1, 5, 7

28 U.S. C. § 2042..... 4

5th Amendment, U. S. Constitution..... 3, 4

14th Amendment, U. S. Constitution..... 1, 4

F. R. A. P. (35)..... 6, 8, 9

OTHER (NOTE: Referenced by brief of concise statements and are listed as Exhibits in Appendices)

EXHIBITS

1) ORDER, Dist. Court. Case No. 3:95-1044, dated 4th , Aug. 99, Judge Campbell ruling in favor of

Petitioner/- Plaintiff and dismissing the Petitioner/Plaintiff's retaliation claim and damages, but granted Petitioner/- Plaintiff's job position of Community Resource Development (CRD) Specialist.

2) NOTICE OF APPEAL, filed by Respondent/- Defendant, Case No. 3:395-1044, dated 2nd , Sept. 99. Petitioner/- Plaintiff's counsel deliberately did not file cross appeal.....**5**

3) ORDER, No. 3:95-1044/3:99-0096, Dist. Judge Haynes' ruling on issue while pending in Sixth Circuit on 3rd , Dec. 99, Order dated 13th , Jan. 00, (Note typographical error as titled Magistrate Judge, should read, District Judge).

4) ORDER, Case No. 99-6202 dated 17th , Dec. 99 from the Sixth Circuit granting the Respondent/- Defendant voluntarily dismissal, during the same time frame, Judge Haynes also made a ruling on same issues in the case, out of his jurisdiction.

5) ORDER, Case No. 3:95-1044, dated 4th , Jan 00, Judge Brown. Order clearly reflects that District Judge Haynes was ruling out of jurisdiction while case was pending in the Sixth Circuit.

6) ORDER, Case No. 3:95:1044, dated 14th , Dec. 99, signed U. S. District Chief Judge Echols, showing the effective day of Judge Haynes' appointment as District Judge, 16th Nov. 99.

7) NOTICE OF APPEAL, filed by Petitioner/Plaintiff, Case No. 3:95:1044 on 21st, Jan. 00. This notice of appeal came after the Order and ruling of District Judge Haynes, dated 13th , Jan 00.....**5**

8) ORDER, Case No. 00-5123, U. S. Courts of Appeals dismissed Petitioner/Plaintiff's appeal for lack of Jurisdiction, due to Magistrate Judge Haynes' position is none appealable to the court of appeal, Sixth Circuit ignored the fact that Judge Haynes was appointed to District Judge prior to Petitioner/Plaintiff appeal on 9th, May 00.

9) ORDER, Case No. 00-5123, En Banc rehearing panel denied Petitioner/Plaintiff's petition for rehearing, dated 28th , July 00.

10) MEMORANDUM OF LAW, dated 3rd , July 00, Petitioner/ Plaintiff advise lower State Courts, that the same subject-matter issues were pending in Sixth Circuit, and the State Courts, lacked jurisdiction over the pending issues.

11) ORDER, Case No. 3:95-1044, dated 2nd, Mar. 00, Judge Campbell denied any action to be taken, due to appeal in Sixth Circuit.

12) ORDER, Judgment dated 8th, Sept. 00, from lower court on the same issue pending in Sixth Circuit En Banc, lower court action in responding is clearly out of the jurisdiction of the lower state court. These issues are now pending with this Supreme Court for ruling to accept Petitioner/-Plaintiff's writ of certiorari.

13) ORDER, state court ruling on appeal issues and disburses funds that are a pending issue, on the 8th, Sept. 00.

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from federal courts:

The opinion of the United States court of appeals appears at **Appendix B** to the petition and is

[ ] reported at _____

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.

The opinion of the United States district court appears at **Appendix D** to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was **July 28, 2000.**

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **July 28, 2000**, and a copy of the order denying rehearing appears at **Appendix B.**

[ ] An extension of time to file a petition for writ of certiorari was granted to and including _____(date) on _____(date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1)

[ ] For cases from state courts:

The date on which the highest state court decided my case was _____. A copy of the decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

The jurisdiction of the Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Is there a constitutional question under due process of law of the Fourteen Amendment? The course of legal proceedings according to those rules and principles which have been established in our system of jurisprudence for the enforcement and protection of private rights. To give such proceeding any validity, there must be a tribunal competent by its constitution that is by the law of its creation to pass upon the subject matter of the suit; and if that involves merely a determination of Respondents (as in this case matter) must be brought within its jurisdiction by service of service of process.

Within this due process of law, explain why is it necessary that the U. S. Appeals, Sixth Circuit and the En Banc Courts refused to accept authority over jurisdiction in this case matter, when all parties are in the personal jurisdiction of the courts in which the case was filed. (*Ruhrgas Ag v. Marathon Oil Co.*(98-470) U. S. Supreme Court 145 F. 3d. 211, reversed and remanded)

As cited under F.R.A.P. 28 U.S.C. §§ 1292 and 1295, due process of law implies the right of the person

affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense to be heard, by testimony or otherwise, and to have the right of **controverting** by proof, every material fact which bears on the question of right in the matters involved.

Petitioner was denied due process of law, by way of the lower courts refusal to accept jurisdiction over the subject-matter in this case. The way in which the lower courts reviewed the issue of subject-matter jurisdiction and came to a conclusion in their ruling, a lack of jurisdiction on subject-matter, the lower courts reviewed the petitioner's case issues in ex parte without reviewing merits of the case before determining jurisdiction.

The jurisdiction over this case matter has clearly been rejected by the lower courts and in doing so the merits of the case has yet to be argued, which brings this case to the Supreme Court for absolute review of the merits in this case matter. It is clearly established that the lower courts are required by their own statutory rules to decide jurisdiction. (*Ruhrgas Ag v. Marathon Oil Co.*(98-470) U. S. Supreme Court 145 F. 3d. 211, reversed and remanded). The lower court ignored the rules which granted them jurisdiction by reviewing the

issues in ex parte proceeding of the Petitioner/Appellant's brief which shows judge's errors in trial court.

The Petitioner, by having to seek the ultimate jurisdiction with the U. S. Supreme Court as the first jurisdiction, the process raises a National interest of concern of judicial proceedings. Therefore, for the National interest of importance of having the U. S. Supreme Court decide questions of concern in this case matter, it is important that if the decision of the U. S. Supreme Court should show, how or establish what statutory rules or principle of law, that would compel the lower courts to make a ruling or decision on the merits of the case in which they have jurisdiction over subject-matter, before that case comes before the U. S. Supreme Court.

Whereas, in doing so, as stated above, such statutory rule, will alleviate the lower courts from viewing such cases in ex parte, thereby rejecting jurisdiction.

The petition for a writ of certiorari should be granted, for the mere fact of not granting jurisdiction in this case matter, which would be the same as not having a constitutional right under the 5th Amendment right to due process, due to the lower courts violating the

Petitioner's 5th Amendment, right to due process of law. By not affording the Petitioner's the right as given in 14th Amendment, the subject-matter of this case was never reviewed on its merits before the case was dismissed for lack of jurisdiction. (*Ruhrgas Ag v. Marathon Oil Co.* (98-470) U. S. Supreme Court 145 F. 3d. 211, reversed and remanded).

How is it that the State Court (Chancery Court) can rule on the issues in this case, while pending on review in federal court, and dispense funds in the amount over sixty thousand dollars to the Petitioner's former counsel, without an Order from a federal court; whereby jurisdiction lies? 28 U.S.C. 3 2042, and **(See P/App. Ex. I).**

STATEMENT OF THE CASE

This case come to the U. S. Supreme Court as a result of the sequence of events as stated below.

The Respondent/Defendant filed an appeal, from the trial court's ruling **(See P/App. Ex. E)** to the U. S. Sixth Circuit Court of Appeals on September 2, 1999. **(See P/Other, Ex. # 2)**

During this time frame of September 2, 1999 through December 3, 1999 of the pending appeal, the trial court, District Judge William Haynes made a ruling and decision on the same case issues while pending in the Sixth Circuit Appeals on December 3, 1999.

It is in violation of F.R.A.P. § 1291 and § 1292 that a Judge's ruling and or making decisions on same issues and/or same case while on appeal in a higher court is stated to be by statutory rule out of jurisdiction, on the subject-matter.

The Petitioner filed a Notice of Appeal on January 21, 2000 to the U.S. Sixth Circuit Appeals Court **(See P/Other, Ex. # 7).** The U. S. Sixth Circuit Appeals Court dismissed the Petitioner's appeal on May 9, 2000 for lack of jurisdiction on the subject-matter **(See P/App. Ex. C).**

The Petitioner filed a Petition for Rehearing En Banc with the Sixth Circuit on March 15, 2000,

requesting a ruling over subject-matter jurisdiction, whereby the merits of the case would be reviewed.

The En Banc Court failed to review the Petitioner's case for subject-matter jurisdiction. The Petitioner's En Banc review request was denied by the original, three panel judge leaving Petitioner without a lower court hearing case on subject-matter jurisdiction.

The Petition filed a Motion to Reconsider to the Sixth Circuit En Banc Court on August 5, 2000 of jurisdiction, subject-matter (**See P/App.Ex. A).** Petitioner's Motion to Reconsider was denied for the following reason. The En Banc Court did not call for a vote, whereas within the F.R.A.P. 35(F), does not require a vote to hear the case but only a vote when the case is to be denied a hearing or rehearing on August 15, 2000. (**See P/App. Ex. B)**

Therefore, these actions appears as alleged in this Writ clearly shows that the U. S. Supreme Court is the only court whereby jurisdiction on the subject matter can be granted to one of the lower court. In furtherance, the Petitioner's petition for Writ of Certiorari should be granted whereby due process of law will be afforded to the Petitioner. **The Brief of the Petitioner/Appellant to the Sixth Circuit, will clearly express and show the true reasons why this case was not reviewed on its merits in the lower courts, whereby jurisdiction lies.**

REASONS FOR GRANTING THE PETITION

A. There is no statutory rule in provision that will show in the determination of law or invoke that the Petitioner must first initiate this case matter at the Supreme Court level; whereas, the lower courts have consistently ruled in their decisions showing lack of jurisdiction in the case matter. Such ruling and action clearly shows an unusual course of judicial procedures.

B. In conflict with relevant decision to this court is that the statutory rules as cited under F.R.A.P. U.S.C. 28 § § 1291 and 1292 in the appeals court, clearly grants jurisdiction in his case matter to the reviewing courts but as noted, the reviewing court have refused to accept jurisdiction, and has not given any statutory rules that will support their ruling for not taking jurisdiction over subject-matter. The conflicting issue is that the U. S. Supreme Court must not be the first to heard the merits, at this level, but only because of how the lower courts ruled in their decision. It has compelled the Petitioner's reasons to bring this case to the Supreme Court for jurisdiction.

C. Being that a vote need not be taken to determine whether the case will be heard or reheard En Banc

unless a judge calls for a vote, the Order entered in by Circuit Judges Merritt, Clay and Cudahy on July 28, 2000 clearly reflects and shows that this panel has failed to comply with the provisions as cited in F.R.A.P. 35(f). Whereas, the Petitioner in this case matter was denied the right to have the En Banc Court to review and issue a decision in this case matter. There was no call for a vote, **not** to hear the case, according to the Order of the En Banc Court. Therefore, this U. S. Supreme Court is the only court left whereby this case should be ruled on its merits.

D. The evidence shows that the lower courts made rulings out of its jurisdiction **(See P/App. Ex. D)**, whereas, if the lower courts had not made these rulings out of its jurisdiction the Petitioner would have prevailed. With the Petitioner prevailing at the U. S. Sixth Circuit Court of Appeals on the facts, that are undisputable, and shows that the lower court judge ruled on this case matter out of his jurisdiction (as cited in the Order of District Court Judge Joe Brown's January 4, 2000 Order **(See P/App. Ex. F)**, while case matter was pending at the Sixth Circuit Court of Appeals such action is clearly judge's error and appealable at the U. S. Sixth Circuit Court of Appeals. It appears that the lower courts have

reviewed this entire case matter, filed by the petitioner, in ex parte based upon the response and decisions that the lower courts have made in not claiming jurisdiction over subject-matter. F.R.A.P. (35) states that the En Banc review court must hear this case.

E. The Respondents' counsel never raised the issue of Argument in their defense to have or request that the Petitioner's claims be dismissed from the higher courts of Sixth Circuit or En Banc review court due to the fact that the merits in this case are not substantiated in the preponderance of evidentiary standards.

F. The jurisdiction of this case matter has yet to be determined where it lies. It is clearly in the reading of this case matter that the U. S. Supreme Court will find that the U. S. Sixth Circuit Court of Appeals Court raised the question of a lack of jurisdiction of subject-matter in support of the Respondents' defense. The U. S. Sixth Circuit failed to review the Order that earlier showed that Judge Haynes was actually a District Judge on November 16, 1999, and Judge Haynes ruled out of his jurisdiction as stated in the record of this case matter.

CONCLUSION

Being that the lower courts chose not to accept jurisdiction over subject-matter in this case, it is requested that the U. S. Supreme Court rule on the merits and decision in this case matter.

Respectfully submitted,

ANGELA S. MAYERS, PETITIONER PRO SE
On this the 20th day of October 2000.

APPENDIX

APPENDICES AND OTHER EXHIBITS

PETITIONER'S NOTE TO REVIEWER(S):

For the purpose of this Writ, the Petitioner use the following to denote Exhibits:

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See P/Other, Ex. # ---- denotes (See Petitioner/Other, Exhibit # ----).

TABLE OF CONTENTS

APPENDIX A:
ORDER, U.S. 6th Cir., denial of Petitioner/Appellant's Motion to Reconsider, Case No. 00-5123 on 15th, Aug. 00.

APPENDIX B:
ORDER, U. S. 6th Cir., denial of En Banc rehearing, Case No. 00-5123 on 28th , Aug 00.

APPENDIX C:
ORDER, U. S. 6th Cir., three panel judge's ruling, Case No. 00-5123, 9th , May 00.

APPENDIX D:
ORDER, U.S. Dist. Court, appealed to 6th Cir. Ct., Order ruled on out of jurisdiction, Case No. 3:95-1044, 14th , Jan. 00, Judge Haynes.

APPENDIX E:
ORDER, U. S. Dist. Court, Awarding Petitioner/Plaintiff CRD job sought, Case No. 3:95-1044, 4th , Aug. 99, Judge Campbell.

APPENDIX F..... pg. 3, par. II
ORDER, U. S. Dist. Court lack of jurisdiction, Case No. 3:95-1044, 4th, Jan. 00, Judge Brown.

APPENDIX G:
ORDER, U. S. Dist. Court , denial of deposit of funds in Dist. Ct. while issues are pending appeal, 3rd, Mar. 00, Case No. 3:95-1044, Judge Campbell.

APPENDIX H:
ORDER, State Court, ruled on judgment out of jurisdiction and contrary to the U. S. Dist. Ct. Order as cited in P/App. Ex. E, No. 00-332-I, 8th , Sept. 00, Chancellor Kilcrease.

APPENDIX I:
CHECKS, issued by the Respondent/-Defendant to State Court, and dispensed by State Court on 8th , Sept. 00 these funds in question are part of issues on appeal, whereas such action is that of a civil/chain of conspiracy to cash funds, Case No. 00-332-I.

OTHER

The following brief and concise statement of rulings and decisions are submitted in support of the Petitioner's Writ, which clearly show the existence of a conflict between the decision of which review is sought and a decision of another court, whereby the Supreme Court is to resolve disagreement within the lower courts about jurisdiction, and personal jurisdiction, on the subject-matter to determine the merits in the case.

EXHIBITS

1) ORDER, Dist. Court. Case No. 3:95-1044, dated 4th, Aug. 99, Judge Campbell ruling in favor of Petitioner/- Plaintiff and dismissing the Petitioner/Plaintiff's retaliation claim and damages, but granted Petitioner/- Plaintiff's job position of Community Resource Development (CRD) Specialist.

2) NOTICE OF APPEAL, filed by Respondent/- Defendant, Case No. 3:395-1044, dated 2nd, Sept. 99. Petitioner/- Plaintiff's counsel deliberately did not file cross appeal.

3) ORDER, No. 3:95-1044/3:99-0096, Dist. Judge Haynes' ruling on issue while pending in Sixth Circuit on 3rd, Dec. 99, Order dated 13th, Jan. 00, (Note typographical error as titled Magistrate Judge, should read, District Judge).

4) ORDER, Case No. 99-6202 dated 17th , Dec. 99 from the Sixth Circuit granting the Respondent/-Defendant voluntarily dismissal, during the same time frame, Judge Haynes also made a ruling on same issues in the case, out of his jurisdiction.

5) ORDER, Case No. 3:95-1044, dated 4th , Jan 00, Judge Brown. Order clearly reflects that District Judge Haynes was ruling out of jurisdiction while case was pending in the Sixth Circuit.

6) ORDER, Case No. 3:95:1044, dated 14th , Dec. 99, signed U. S. District Chief Judge Echols, showing the effective day of Judge Haynes' appointment as District Judge, 16th Nov. 99.

7) NOTICE OF APPEAL, filed by Petitioner/Plaintiff, Case No. 3:95:1044 on 21st, Jan. 00. This notice of appeal came after the Order and ruling of District Judge Haynes, dated 13th , Jan 00.

8) ORDER, Case No. 00-5123, U. S. Courts of Appeals dismissed Petitioner/Plaintiff's appeal for lack of Jurisdiction, due to Magistrate Judge Haynes' position is none appealable to the court of appeal, Sixth Circuit ignored the fact that Judge Haynes was appointed to District Judge prior to Petitioner/Plaintiff on 9th, May 00.

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10) MEMORANDUM OF LAW, dated 3rd, July 00, Petitioner/ Plaintiff advise lower State Courts, that the same subject-matter issues were pending in Sixth Circuit, and the State Courts, lacked jurisdiction over the pending issues.

11) ORDER, Case No. 3:95-1044, dated 2nd, Mar. 00, Judge Campbell denied any action to be taken, due to appeal in Sixth Circuit.

12) ORDER, Judgment dated 8th, Sept. 00, from lower court on the same issue pending in Sixth Circuit En Banc, lower court action in responding is clearly out of the jurisdiction of the lower state court. These issues are now pending with this Supreme Court for ruling to accept Petitioner/ Plaintiff's writ of certiorari.

13) ORDER, state court ruling on appeal issues and disburses funds that are a pending issue, on the 8th Sept. 00.

P/App., Ex. A

00-5123

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ANGELA S. MAYERS,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	ORDER
	)	
TENNESSEE BOARD OF REGENTS, ET AL.,	)	
	)	
	)	
Defendants-Appellees.	)	

Upon consideration of appellant's motion to reconsider the order of July 28, 2000 denying her petition for rehearing enbanc, it is ORDERED that the motion not be accepted for filing.

ENTERED BY ORDER OF THE COURT

Leonard Green
Leonard Green, Clerk/*lu*

Petitioner's NOTE: Entered 15th day of August 2000.

No. 00-5123

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ANGELA S. MAYERS,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	ORDER
	)	
TENNESSEE BOARD OF REGENT; TENNESSEE STATE UNIVERSITY,	)	
	)	
	)	
Defendants-Appellees.	)	
	)	

Before: MERRITT, CLAY, and CUDAHY*, Circuit Judges.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active

* The Honorable Richard D. Cudahy, Circuit Judge of the United States Court of Appeals for the Seventh Circuit, sitting by designation.

judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

Leonard Green

Leonard Green, Clerk/*n*

Petitioner's NOTE: Entered 28th day of July 2000.

P/App., Ex. C

No. 00-5123

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ANGELA S. MAYERS,	)
	)
Plaintiff-Appellant,	)
	)
v.	) ORDER
	)
TENNESSEE BOARD OF REGENT; TENNESSEE STATE UNIVERSITY,	)
	)
Defendants-Appellees.	)

Before: MERRITT, CLAY, and CUDAHY*, Circuit Judges.

This matter is before the court upon initial consideration of appellate jurisdiction.

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* Hon. Richard D. Cudahy, Senior United States Circuit Judge for the Seventh Circuit Court of Appeals, sitting by designation.

A review of the documents before the court indicates that the civil rights action was assigned to Judge Todd J. Campbell and he entered a final decision in the case on August 4, 1999. The defendants appealed (appeal No. 99-6292). Judge Campbell referred some post-judgment matters to Magistrate Judge William J. Haynes. Jr. for consideration. A status conference was held and orders entered. The plaintiff appealed (appeal No. 00-5123).

This court lacks jurisdiction over appeal No. 00-5123. Orders of a magistrate judge are not appealable unless the magistrate judge is given plenary jurisdiction pursuant to 29 U.S.C. § 636(c (1). *Tripati v. Rison*, 847 F. 2d 548-49 (9th Cir.1988) (per curiam); *McGraw v. Connelly (In re Bell &Beckwith)*, 838 F.2d 844, 848 n 5 (6th Cir. 1988); *Ambrose v. Welch*, 729 F.2d 1084, 1085 (6tth Cir. 1984) (per curiam). The magistrate judge was not given plenary jurisdiction in this case.

Accordingly, it is ordered that appeal No. 00-5123 is dismissed for lack of jurisdiction.

ENTERED BY ORDER OF THE COURT

Leonard Green

Clerk

Petitioner's Note: Entered on 9th, May 2000

P/App., Ex. D

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSE
NASHVILLE DIVISION

ANGELA S. MAYERS,	)	
	)	
Plaintiff,	)	Case No.3:95-1044
	)	Consolidated
v.	)	Case No. 3:99-0096
	)	Judge Campbell
TENNESSEE BOARD OF	)	Magistrate
REGENTS	)	Brown
AND	)	
TENNESSEE STATE	)	
UNIVERSITY	)	
	)	
Defendants.	)	

ORDER

On December 3, 1999 a status conference was held before the Magistrate Judge for the purpose of addressing Plaintiff's Attorneys' Motion to Withdraw, Motion to Preserve Attorney's Lien on Proceeds, Motion to Deposit Judgement Proceeds with the USDC

Clerk, Motion to Deposit Judgement amount and Attorney's Fees into Escrow, Plaintiff's Motion to Stay All Proceedings Regarding Plaintiff's Attorney's Motion to Withdraw/Preserve Attorney's Lien on Proceed, Plaintiff's Response to Motion to Withdraw by Plaintiff's Attorney Motion to Preserve Attorney's Lien on Proceeds Motion to Deposit Judgment Proceeds with the USDC Clerk, and Plaintiff/Appellee's Objection to Stipulation to Dismiss.

Present at the conference were Plaintiff, Angela Mayers, R. Eddie Davidson, former attorney for Plaintiff, and Leslie Ann Bridges of the Office of the Attorney General. Following a discussion of the outstanding motions, the Magistrate Judge is of the opinion that the Sixth Circuit currently maintains Jurisdiction over this matter and that the Motion of Counsel to withdraw is well taken.

It is therefore ordered that:

1) Pending the resolution of the Stipulation of Dismissal in the Sixth Circuit and the motions filed by the Plaintiff in opposition in the Sixth Circuit, the Plaintiff/Appellee's Opposition to defendants/Appellee's Objection to Stipulation to Dismiss, Plaintiff's counsel's Motion to Preserve Attorney's Lien on Proceeds, Motion to Deposit Judgment Proceeds with the USDC Clerk, and Counsel for Plaintiff's Motion to Deposit Judgment Amount and Attorney's Fees into Escrow is

premature and that no further action is to be taken until the Sixth Circuit enters the Stipulation of Dismissal or otherwise rules on the Plaintiff's motions.

2) The parties agree by that, if the Stipulation of Dismissal is granted and the Sixth Circuit denies Plaintiff's Motions, the parties have agreed that the Defendant will issue two check, one in the amount of the judgement, or for $27,856.96, made payable to Angela S. Mayers and the second for the amount awarded by the Court in attorneys' fees, $44,242.50 made payable to David B. Lyons and R. Eddie Davidson. Nothing in this agreement terminates any right of the Plaintiff concerning any dispute she may have with her attorney regarding those fees.

3) Counsel's Motion to Withdraw is granted. However, due to the lien that counsel may have on the judgment, the remaining parties, the Plaintiff proceeding *pro se* and the Office of the Attorney General, are to serve copies of all fillings in this Court on David B. Lyons, 601 Woodland Street, Nashville, TN 37206.

Entered this 13th day of January, 2000.

William J. Haynes, Jr.
Magistrate Judge William J. Haynes, Jr.

Petitioner's NOTE: ORDER entered on 14th Jan. 2000.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent U.S. mail, first class postage prepaid, to:

David B. Lyons, Esq.
601 Woodland Street
Nashville, TN 37206

Angela S. Mayers
525 Naples Avenue
Nashville, TN 37207

This 13th day of December, 1999.

Leslie Ann Bridges/rog w/permission
Leslie Ann Bridges

P/App. Ex. E

IN THE UNITED STATES COURT DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

ANGELA S. MAYERS	)
	)
	) No. 3:95-1044
v.	) JUDGE CAMPBELL
	) CONSOLIDATED
	) CASES
TENNESSEE BOARD OF	)
REGENTS, et al	)
	)

ORDER

This matter was tried, without a jury, on July 26 and August 2, 3, and 4, 1999. In accordance with Rule 52 of the Federal Rules of Civil Procedure, the Court makes the following findings and conclusions.

Plaintiff alleges that Defendants discriminated against her, based upon her gender, in failing twice to hire her for the position of CRD Specialist in the Cooperative Extension Program at Tennessee State University ("TSU) and in determining the amount of her salary, as compared to male employees. Plaintiff also

alleges that Defendants retaliated against her for filing a discrimination charge. Defendants deny any discriminatory conduct.

TITLE VII – DISPARATE TREATMENT

Title VII prohibits discrimination by an employer against any individual on the basis of race, color, religion, sex or national origin. 42 U.S.C. " 2000e-2(a). The framework for analyzing a Title VII claim was established by the Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L.Ed.2d 668 (1973)). To established her prima facie case of discrimination, in the absence of direct evidence of discrimination, the Plaintiff must show (1) that she was in a protected class or minority, (2) that she was qualified for the position, (3) that despite these qualifications, she was subjected to an adverse employment decision or rejected, and (4) that she was replaced by someone outside of the protected class or that the position remained open and Defendants continued to accept applications. McDonnell Douglas, 93 S. Ct. at 184.

Here, it is undisputed that Plaintiff is a member of a protected group.

Defendants argue she was not qualified for the position. After hearing the evidence and viewing the demeanor, manner of testifying and candor of the witnesses, the Court finds that Plaintiff has proven, by a preponderance of the credible evidence, that she was qualified for the position.

The evidence shows that two different search committees at TSU rated her highest of all candidates for the position and recommended that she be hired. Trial Exhibits ("Exs.") 10 and 18. Dr. Joe Morris, who frequently worked with Plaintiff, was a CRD Specialist himself, and testified that he actually wrote the job position announcement, testified that the search committee voted unanimously to recommend the Plaintiff for the job. He testified that he could not see any reason why Plaintiff was not hired immediately. He testified that the job required a person who could write well, speak well, and plan well, and the Plaintiff did all of these things well.

Dr. James Edwards, who was Extension Administrator, told Plaintiff she had the CRD Specialist job the first time she applied. Ex. 12. Dr. Richard Winston recommended Plaintiff for the position and recommended, the second time that she get the highest salary offered, $42,000. Exs. 20 and 23.

Also, significantly, it is undisputed that Defendants actually offered Plaintiff the position of CRD Specialist, in July of 1996, after this lawsuit was filed. There is no evidence in this record either that the requirements of the job changed or that Plaintiff's qualifications changed between the two times her applications were rejected and July of 1996, when Defendants offered her the job. Dr. Bankhead testified that the offer has never been withdrawn and remains outstanding.

It is undisputed that Plaintiff was subject to an adverse employment action in that twice she was recommended and rejected for the CRD Specialist position for which she applied.

It is undisputed that, at the time of Plaintiff's applications, this position was funded and vacant. It is also undisputed that after Plaintiff's first rejection, the position was announced again, reposted, and Defendants took applications a second time. Defendants have never filled the position for which Plaintiff applied. The Court notes that Defendants cannot circumvent the fourth element of the McDonnell-Douglas analysis simply by refusing to fill the position. Al-Hashimi v. Scott, 756 F.Supp. 1567, 1579 (S. D. Ga. 1991).

The Court also finds that the reasons set forth by Defendants for twice failing to hire Plaintiff to the CRD Specialist position she sought are pretextual.

Pretext may be shown either directly by persuading the trier of fact that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence. Manzer v. Diamond Shamrock Chemicals Co., 29 F.3d 1078, 1082 (6th Cir. 1994). In order to challenge the credibility of an employer's explanation, the plaintiff must show by a preponderance of the evidence: (1) the proffered reasons had no basis in fact; (2) the proffered reasons did not actually

motivate the adverse employment action; or (3) the proffered reasons were insufficient to motivate the adverse employment action. Id. At 1084.

Plaintiff testified that she was first told, by Dr. Edwards, that she had the job. See Ex. 11. Then Dr. Edwards told her that Dr. Wakefield did not want her in the position because he wanted to keep her in the 4-H position. See Ex. 13. Then, in response to Plaintiff's EEOC charge, Defendants stated that Plaintiff was not denied employment as a CRD Specialist. See Ex. 15. Defendants stated that there were several irregularities in the search process, that Dr. Wakefield never received a recommendation that Plaintiff be hired, and that the position had not been filled. Id.

Plaintiff testified that Dr. Winston told her that Dean Wakefield did not want her for the position because he wanted someone with a rural development background. Plaintiff was also told that Dean Wakefield wanted to keep Plaintiff in 4-H, although Wakefield never told Plaintiff that during her interview.

Dr. Winston testified at trial that the reason he was concerned about Plaintiff's being hired for the position (despite the fact that he recommended her) was because she did not have experience working with adults. He stated that he recommended her because

she had the potential to progress. Dr. Winston testified that Dean Wakefield told him he did not want Ms. Mayers because she had no experience working with adults.

Plaintiff and Dr. Winston both testified that the second time Plaintiff applied for the position, Dr. Winston thought Dean Wakefild might reconsider if he lowered the salary.

At trial, Dean Wakefield testified that the search committee was not properly formed or appointed. Also, Dean Wakefield testified that he wanted someone with proven abilities as opposed to potential, someone who could "hit the ground running." He also wanted someone with rural development background and grant writing experience.

Dean Wakefield's testimony was contradicted by Dr. Edwards and Dr. Winston, in that Dean Wakefield said he never got the paperwork or the recommendation of Plaintiff the first time she applied for the position. In addition, Dean Wakefield's reasons given at trial are inconsistent with the reason given in Defendants' Answers to Interrogatories filed in this case, where Defendants stated that Plaintiff was not selected because, among other things, after the position was advertised, the Cooperative Extension Administrator resigned and an Interim Administrator was appointed, and the Dean did not have confidence in the se arch process in the absence of an Administrator. See Ex. 80, p. 7.

Later, on cross-examination, after a break in the trial, Dean Wakefield stated that he was concerned that Plaintiff would be working with adults and she had experience primarily with children.

Defendants, in summary, have offered inconsistent and ever-changing reasons for their failure to hire and, accordingly, lack credibility.

Despite all these changing statements about the reason Plaintiff was not qualified for the position, however, Defendants offered her the position in July of 1996. As noted above, there is no evidence that anything about the job requirements or Plaintiff's qualifications had changed. Indeed, Dr. Bankhead testified that there was no discussion with him about Plaintiff's qualifications at the time this job offer was being contemplated. The offer to Plaintiff has never been withdrawn.

Finally, Dr. Chesney, the current Administrator of Cooperative Extension, testified, for the first time, that the CRD Specialist job now requires experience in forestry, in which Plaintiff has no experience. The Court finds that these ever-changing reasons are pretextual and appear to be crafted as a litigation strategy.

Even if the plaintiff proves that the employer's proffered reason is pretext, however, the plaintiff still bears the ultimate burden of proving that a discriminatory intent motivated the defendant's actions. St. Mary's

Honor Center v. Hicks, 509 U.. S. 502, 511, 113 S. Ct. 2742, 2751-52, 125 L.Ed.2d 407 (193). The factfinder may infer intentional discrimination from proof of a prima facie case, coupled with a disbelief of the proffered reason for the employer's action, but such an inference is not required. EEOC v. Yenkin-Majestic Paint Corp., 112 F.3d 831, 835 (6th Cir. 1997).

The Court finds that Plaintiff has carried her burden of proving that a discriminatory intent motivated Defendants' actions in failing to hire her for the CRD Specialist position. Considering all the circumstantial evidence presented, the Court finds that Defendants discriminated against Plaintiff because of her gender when they failed, twice, to hire for the position of CRD Specialist, despite recommendations of two search committees, and then proffered various, ever-changing and questionable reasons for their decisions. Accordingly, judgment is entered for the Plaintiff on the claim of gender discrimination for failure to hire.

With regard to the amounts of Plaintiff's salary as "Assistant Professor/4-H Specialist" the Court finds that Plaintiff has not proven that males were treated more favorably than she. Primarily, Plaintiff has not shown that the males whose salaries she seeks to compare with hers were similarly situated. For example, the evidence is undisputed that these males had been at TSU longer than Plaintiff. Longevity on the job may be a basis for greater pay.

Even if Plaintiff had offered such proof, however, it is undisputed that Plaintiff did not bring a disparate pay claim in her EEOC charge and, thus, Plaintiff cannot pursue this claim. Alexander v. Local 496, Laborer' Int'l Union of North America, Inc., 177 F.3d 394, 407 (6th Cir, 1999). Judgment, therefore, is entered for the Defendants on the issue of disparate pay.

TITLE VII – RETALIATION

It is unlawful for an employer to discriminate against any employee because she has made a charge or claim of discrimination against the employer. To prove a claim of retaliation, Plaintiff must show (1) that she was engaged in an activity protected by Title VII; (2) that her exercise of her civil rights was known to the Defendants; (3) that Defendants thereafter took an adverse employment action against her; and (4) that there was a causal connection between her protected activity and the adverse employment action. Williams v. The Nashville Network, 132 F.3d 1123, 1131 (6th Cir. 1997); Canitia v. Yellow Freight System, Inc., 903 F.2d 1064, 1066 (6th Cir. 1990).

It is undisputed here that Plaintiff engaged in activity protected by Title VII, in that she filed claims of discrimination with EEOC and filed this lawsuit. It is undisputed that Defendants knew of her discrimination charge.

The Court finds that Plaintiff has failed to prove, by a preponderance of the evidence, that Defendants thereafter took an adverse employment action against her. An "adverse employment action" is defined as a materially adverse change in the terms of employment. Joiner v. Ohio Dep't of Transportation, 949 F. Supp. 562, 567 (S. d. Ohio 1996). A change in the terms of employment is "materially adverse" when the employee received significantly diminished material responsibilities, including termination of employment, demotion evidenced by a decrease in wage or salary, less distinguished title, material loss of benefits, or other indices that might be unique to a particular situation. Id.; Kocsis v. Multi-Care Mgmt., Inc., 97 F.3d 876, 886 (6th Cir. 1996).

Here, Plaintiff's employment was not terminated; she did not lose salary or benefits; she was not demoted; she did not significantly lose responsibilities. With regard to the use of the title "Assistant Professor," the only proof is that USDA guidelines prohibit the use, by Extension employees, of any academic titles on "penalty mail." Thus, even if "Assistant Professor" is Plaintiff's official title, as she contends, she still could not use that title on penalty mail. Plaintiff was not instructed to refrain from using this title on anything other than penalty mail.

Plaintiff testified that she has felt "left out" and embarrassed as a result of Defendants' actions, but those feelings alone do not constitute an "adverse employment action.."

Even if the Court were to construe Defendants' actions as adverse employment actions, however, the Court finds that Plaintiff has failed to prove a causal connection between her protected activity and the incidents she cites as retaliatory. The other actions complained about (e.g., reprimands, low evaluations) all were taken for legitimate supervisory business reasons, not to retaliate. The connections alleged by Plaintiff are merely speculative and insufficient to establish the required causal connection under Title VII.

Accordingly, on the issue of retaliation, judgment is entered for the Defendant.

DAMAGES

With regard to damages for Defendants' discriminatory failure to hire, Title VII allows the Plaintiff to recover back pay and compensatory damages. In the Court's discretion, it may award attorneys' fees and costs. In addition, Plaintiff here seeks to be placed in the CRD Specialist job she sought.

The Court finds that Plaintiff is entitled to back pay, from the date she was first denied the CRD Specialist position in 1993 until the date she was unconditionally offered the position in 1996. Plaintiff admits that the offer was unconditional. As a result, back pay cannot be recovered thereafter. Ford Motor Co. v. Equal Employment Opportunity Comm'n, 458 U.S. 219, 238-39 (1982).

In addition, the Court finds that Plaintiff is entitled to compensatory damages in a total amount of Twenty Thousand Dollars ($20,000).

Plaintiff may apply, under the Local Rules of this Court, for an award of attorneys' fees and costs, and Defendants may respond thereto.

Finally, the Court orders that Plaintiff shall be placed in the position of CRD Specialist at TSU's Cooperative Extension Program, at the salary offered to Plaintiff in July of 1996 ($40,000), plus any salary adjustments she would have been entitled to receive in that position from 1996 to 1999, and on the terms and conditions set forth in that offer. The Court notes that the only evidence in the record is that all employees in new positions are subject to an initial six-month probation period.

IT IS SO ORDERED.

Todd Campbell
TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE

P/App. Ex. F

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSE
NASHVILLE DIVISION

ANGELA S. MAYERS,	)	
	)	
Plaintiff,	)	Case No. 3:95-1044
	)	Consolidated w/3:99-0096
	)	Judge Campbell/Brown
	)	
TENNESSEE BOARD	)	
OF REGENT, et al,	)	
	)	
Defendants.	)	

ORDER

This case has been referred to the undersigned Magistrate Judge for a decision on three (3) pending motions (Docket Entry No. 171).

Docket Entry No. 152 is a motion by the plaintiff's attorneys to withdraw and to preserve attorneys' liens on the proceeds, as well as a motion to deposit the judgment proceeds with the U.S. District Court and to prevent the plaintiff from continuing to tie up Docket Entry 172 the funds the attorneys believe they are entitled to as a result of the judgment secured on behalf of the plaintiff.

Docket 172

Docket Entry No. 153 is a motion by the plaintiff herself to stay all proceedings pending a decision by the Sixth Circuit on the appeal which was then pending. This motion was filed on October 26, 1999.

Finally, Docket Entry No. 157 is a motion by Mr. Lyons, former counsel for the plaintiff requesting that the check, which apparently has been made payable jointly to the plaintiff and the attorneys in the amount of $42, 000.00, be paid into the Registry of Court, subject to further orders.

A review of the file indicates that a hearing was held in this matter before Magistrate Judge/District Judge Haynes on December 3 or 4, 1999. The result of this hearing was announced in an Order entered by District Judge Haynes on January 14, 2000 (Docket Entry No. 168).

Between the time of the hearing and the time that Judge Haynes entered his Order, the Sixth Circuit affirmed the dismissal of the State's appeal and pointed out that the plaintiff had no cross-appeal pending, having let the time for tiling expire (Docket Entry No. 165).

The plaintiff has now filed an appeal with the

Sixth Circuit on January 21, 2000 (Docket Entry No. 169). Both Judge Campbell's referral to the undersigned Magistrate Judge and the appeal were entered on January 21, 2000.

While the plaintiff has an appeal pending, the Court lacks jurisdiction to rule on the pending motions.

Accordingly, the undersigned will take no action on the pending motions until the Sixth Circuit acts on the pending appeal.

Following a decision by the Sixth Circuit, the Magistrate Judge will set a hearing in this matter if necessary.

The Magistrate Judge also notes in reviewing the file that he participated in a settlement conference in this matter in late 1998. Accordingly, his impartiality might be questioned. The Clerk is **directed** to notify the parties of a procedure by which they may waive this disqualification. Unless appropriate waivers are filed with the Clerk, the Clerk is **directed** to transfer this case to Magistrate Judge Griffin.

It is so ORDERED.

Joe B. Brown
JOE B. BROWN
United States Magistrate Judge

Petitioner's NOTE: Entered on 4th Jan. 00.

P/App. Ex. G

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

ANGELA S. MAYERS	)
	)
	) No. 3:95-1044
v.	) JUDGE CAMPBELL
	)
TENNESSEE BOARD OF REGENT,)	
and TENNESSEE STATE	)
UNIVERSITY	)

ORDER

Pending before the Court are Plaintiff's Motion for Order to Preserve Attorney's Lien (Docket No. 151); Plaintiff's Motion to Stay All Proceedings (Docket No. 153); and Plaintiff's Motion for Order to Deposit Judgment Amount and Attorney's Fees into Escrow (Docket No. 157). In light of the Magistrate Judge's Order of February 3, 2000 (Docket No. 172), Plaintiff's Motions are DENIED without prejudice to their being refiled once the appeal of this matter is concluded.

IT IS SO ORDERED.

Todd Campbel
TOOD J. CAMPBELL
UNITED STATES DISTRICT JUDGE

Docket Entry 179

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

DAVID LYONS,	]	
Plaintiff	]	
	]	
vs.	]	**No: 00-332-I**
	]	
ANGELA MAYERS,	]	
Defendant	]	

ORDER OF JUDGMENT AND TO RELEASE FUNDS

This cause came to be heard on the 30th day of August, 2000, before the Honorable Chancellor Irvin Kilcrease in Chancery Court of Davidson County, upon an evidentiary hearing as to determination of fees to be awarded to plaintiff David Lyons. Said hearing followed a previous order of summary judgment, the same granted on or about July 14, 2000, favor of Mr. Lyons upon the Court's finding Angela Mayers in breach of contract for her failure to pay attorney's fees to Mr. Lyons. At the evidentiary hearing the Court made the following findings of fact and ruled as follows:

1. That Angela Mayers breach of contract and failure to pay fees which were due and owing to David Lyons resulted in specific damages to David Lyons.

2. That pursuant to the fee contract between the parties, David Lyons is hereby awarded a judgment for damages against Ms. Mayers in the amount of $16,707.00.

3. That pursuant to the Court's previous order of summary judgment, is entitled to $1,962.70 in litigation expenses which he advanced on behalf of Ms. Mayers.

4. That the monies heretofore deposited with the Clerk and Master of this Court, the same now being deposit in the Clerk and Master's Office in the amount of $27,856.96, shall be disbursed as follows: As to plaintiff David Lyons, the Clerkwill hereby disburse to Mr. Lyons the judgment amount of $16,707.00. Further, as to Mr. Lyons' litigation expenses, the Clerk shall hereby disburse to David Lyons the amount of $1,962.70.

5. Thereafter, upon deducting Court costs from the defendant's remaining portion, the balance shall be disbursed to defendant Angela Mayers.

IT IS SO ORDERED, ADJUDGED and DECREED.

Entered this _____ day of September, 2000.

Irvin Kilcrease, Jr
JUDGE IRVIN KILCREASE

Approved for Entry:

R. Eddie Davidson
R. EDDIE DAVIDSON
Atty. For the plaintiff
601 Woodland Street
Nashville, TN 37206
254-0202

CERTIFICATE OF SERVICE

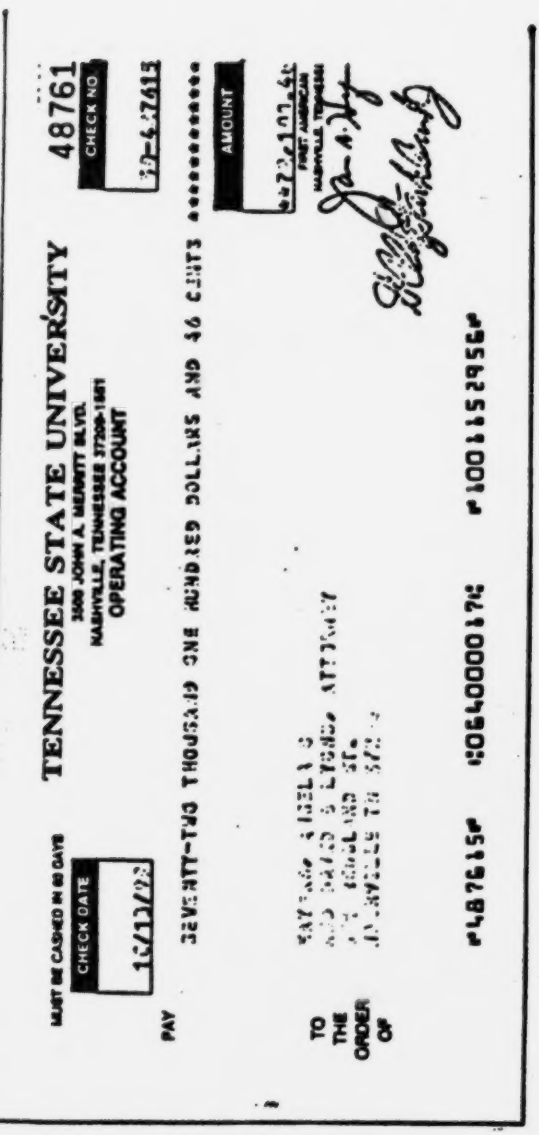
I certify that a true copy of this Response was mailed to Angela Mayers, at 1525 Naples Avenue, Nashville, TN 37207 on this the 1st day of September, 2000.

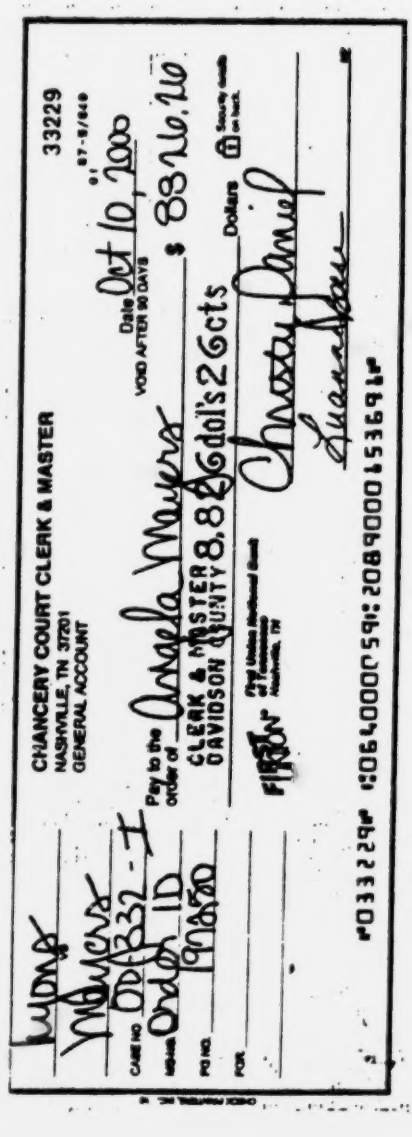
R. Eddie Davidson
R. Eddie Davidson

Petitioner's NOTE: Entered 8th, Sept. 00

APPENDIX I

Copy of Checks dispensed while case is pending on appeal





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OTHER (EXHIBITS)

The following brief and concise statement of rulings and decisions are submitted in support of the Petitioner's Writ, which clearly show the existence of a conflict between the decision of which review is sought and a decision of another court, whereby the Supreme Court is to resolve disagreement within the lower courts about jurisdiction, and personal jurisdiction, on the subject-matter to determine the merits in the case.

NOTE: The Exhibits, as listed as follows, are represented in the Appendix as listed. All other Exhibits are preceding as listed.

a) P/Other, Ex. # 1 (See P/App. Ex. E)

b) P/Other, Ex. # 3 (See P/App. Ex. D)

c) P/Other, Ex. # 5 (See P/App. Ex. F)

d) P/Other, Ex. # 8 (See P/App. Ex. C)

e) P/Other, Ex. # 9 (See P/App. Ex. B)

f) P/Other, Ex. # 11 (See P/App. Ex. G)

g) P/Other, Ex. # 12 (See P/App. Ex. H)

h) P/Other, Ex. # 13 (See P/App. Ex. A)

P/OTHER Ex. # 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSE
NASHVILLE DIVISION

ANGELA S. MAYERS,	)	
	)	
Plaintiff,	)	Case No. 3:95-1044
	)	Consolidated with
	)	Case No. 3:99-0096
v.	)	Judge Campbell
TENNESSEE BOARD OF	)	
REGENTS	)	
AND TENNESSEE STATE	)	
UNIVERSITY,	)	
	)	
Defendants.	)	

NOTICE OF APPEAL

Notice is hereby given that Defendants, Tennessee Board of Regents and Tennessee State University, appeal to the United States Court of Appeals for the Sixth Circuit from the final judgment of the District Court entered on August 4, 1999 (Docket Entry No. 133).

Respectfully submitted,

PAUL G. SUMMERS
Attorney General and Reporter

Leslie A. Bridges --
Leslie Ann Bridges, B.P.R. No. 11419
Senior Counsel
Civil Litigation and State Services Division
(615) 741-4710

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing have been sent U.S. mail, first class postage prepaid, to:

David B. Lyons, Esq.
601 Woodland Street
Nashville, TN 37206

This 2 day of September, 1999.

Leslie A. Bridges
Leslie Ann Bridges

P/OTHER Ex. # 4

No. 99-6292

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ANGELA S. MAYERS,	)	
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	ORDER
	)	
TENNESSEE BOARD OF REGENT;	)	
TENNESSEE STATE UNIVERSITY,	)	
	)	
Defendants-Appellants.	)	

Before: MARTIN, Chief Judge.

The defendants appeal the judgment for the plaintiff in this Title VII case. The defendants have filed a stipulation to voluntarily dismiss their appeal. The stipulation provides that any costs shall be assessed against the defendants. See Fed. R. App. P. 42(b). Counsel for the plaintiff has signed the stipulation. The plaintiff's objection, the court concludes it is not well taken.

On August 4, 1999, the district court entered an order which granted judgment for the plaintiff on her

claim of gender discrimination for failure to hire; the order granted judgment for the defendants on the issues of disparate pay and retaliation. The defendants filed a notice of appeal on September 2, 1999. The plaintiff did not file a cross-appeal.

In her objection, the plaintiff states that the district court committed "errors and judicial decisions that were capricious and arbitrary in nature . . . ." We are, however, without jurisdiction to review those claimed errors. By failing to file a cross-appeal, the plaintiff gave up her right to review those claimed errors. By failing to file a cross-appeal, the plaintiff gave up her right to review. "Once an appeal is brought, if an appellee seeks to vacate, modify, or alter the rights of the parties under the judgment, it must cross-appeal or forgo review of its claim." 19 *Moore's Federal Practice*, § 205.04[1] (Matthew Bender 3d. ed.). Even if the court were to prohibit the defendants from dismissing their appeal, the plaintiff would be unable to obtain review of the claims set forth in her objection.

Accordingly, the plaintiff's objection to voluntary dismissal is **OVERRULED**. The defendants are **GRANTED** leave to voluntarily dismiss their appeal as set forth in their stipulation.

ENTERED BY ORDER OF THE COURT

Leonard Green/oi
Clerk

Petitioner's **NOTE**: Entered on 17th, Dec. 1999.

P/OTHER Ex. # 6

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSE
NASHVILLE DIVISION

Mayers	)	
	)	No. *3:95-1044*
v.	)	JUDGE *Campbell*
TN State Bd. of Regents, et. al.	)	

ORDER

As of November 16, 1999, the Honorable William J. Haynes, Jr., was appointed as a United States District Judge. Therefore, all cases currently referred to him in his capacity as magistrate Judge are to be referred to magistrate Judge Griffin and Magistrate Judge Brown on an equal and random basis.

The above case management conferences and hearings not previously continued by Judge Haynes will remain as scheduled and will be placed on the calendar of the newly assigned Magistrate Judge. All scheduled deadlines will remain in effect.

It is so ORDERED.

Robert L. Echols
ROBERT L. ECHOLS
CHIEF U.S. DISTRICT JUDGE

Petitioner's **NOTE:** Entered on 12/14/99

Docket No. 159

P/OTHER Ex. # 7

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ANGELA S. MAYERS	)	
	)	
Plaintiff,	)	
	)	**Case No. 3:95-1044**
	)	**Consolidated with**
v.	)	**Case No. 3:99-0096**
	)	**Judge Campbell**
TENNESSEE BOARD OF	)	**Magistrate Judge**
REGENTS,	)	**Brown**
TENNESSEE STATE	)	
UNIVERSITY	)	
	)	
Defendants.	)	

NOTICE OF APPEAL

Notice is hereby given that Plaintiff *pro se* appeal to the United States Court of Appeals for the Sixth Circuit from the final judgement of the Magistrate of the District Court entered on January 14, 2000 (over the signature

and name of Leslie Ann Bridges/initials, w/permission) [Assistant Attorney General and attorney for the defendants], and signed by Magistrate Judge Haynes (now a District Judge) for the following reasons set forth.

BACKGROUND

In October 1995, Plaintiff filed a lawsuit for discrimination under Title VII against defendants, Tennessee Board of Regents and Tennessee State University for failing to hire her as a Community Resource Development Specialist (CRD) in 1993 and 1994, respectively. Plaintiff's 1995 lawsuit for discrimination also included a claim for retaliation and for disparate pay based on gender discrimination. In February 1999, plaintiff filed a second lawsuit against the defendants for continuation of retaliation for filing her Title VII claim in 1995, and for filing an EEOC claim in April 1997, against Tennessee State University's agents: Drs., James Hefner, Ivory Lyles and Troy Wakefield *(Note: For the purpose of this document, these agents are referred to as a part of the defendants also since the two case were consolidated).* These lawsuits were consolidated at the bequest of the defendants.

After a trial on the merits, the District Court entered an Order, which found that the failure to hire the Plaintiff for the CRD position violated Title VII. The District Court ruled that Plaintiff was entitled to

compensatory damages and back pay from January 1993 to July 1996. The District Court dismissed the Plaintiff's disparate pay claim for failure to include the claim as a part of Plaintiff's EEOC claims filed in 1993, 1994 and 1997, respectively. The District Court ruled for the defendants on the 1999 retaliation lawsuit.

The defendants filed their appeal of the District Court's August 4, 1999 ruling that granted the plaintiff's attorney fees and back pay, to the Sixth Circuit Court of Appeals. The plaintiff, acting as a pro se litigant, filed two motions in opposition to the defendants and plaintiff's attorney dismissal of the defendants' appeal, on October 21, 1999.

Plaintiff, who is un-schooled in the law and incompetent of assuring her legal rights before the Court, only recourse was to proceed pro se since plaintiff's attorney had filed false and misleading motion with the Court in bad faith to harm plaintiff and was done for his own personal gain, this, in conjunction with the District Court's granting plaintiff first counsel leave to withdraw three days before trial precipitated in plaintiff having to secure new counsel who proceeds to act in bad faith. Plaintiff responded to the defendants' motion with the Sixth Circuit Court of Appeals in a response motion of her own, requested that for the sake of justice and her now depleted funds, that the Sixth Circuit Court appoint Plaintiff counsel.

The Plaintiff's former attorney continued to file motions in the District Court even with the knowledge that the District Court had already ordered motions stayed pending defendants' appeal. The plaintiff filed counter
motions at the District Court requesting the Court to continue staying all proceedings pending the appeal. During this time, the plaintiff's attorney, David Lyons, was still the attorney of record. Mr. Lyons would receive all Court correspondences in refer to this matter. The plaintiff was enslaved by her attorney who controlled all knowledge about the said proceedings, refusing to appeal case on two separate occasions on plaintiff's behalf which caused the plaintiff's *pro se* proceedings.

On December 3, 1999 the District Court (Magistrate Judge) held a status hearing. The plaintiff was contacted by phone by the District Court's Clerk to attend the meeting in person. The Court Clerk informed the plaintiff that the conference was only to determine the status of the case because the District Court (Magistrate Judge) who would be conducting the conference, would soon be promoted to a District Judge position, and the Court needed to remand the case to another Magistrate Judge.

The status conference of December 3, 1999 became that of a pre-trial conference after the fact; whereby, the District Court ruled on motions on which the plaintiff was ambushed by both the plaintiff's attorney representative (Mr. Eddie Davidson), the Court and the Assistant Attorney General (counsel for the defendants).

An Order was received on December 10, 1999 by the U. S. District Court Clerk's Office, and served on Plaintiff, *pro se* (over the signature and name of Leslie Ann Bridges/initials, w/permission) [Assistant Attorney
General and attorney for the defendants] on December 13, 1999. The Order was signed and entered by Magistrate Judge William Haynes (now a District Judge) on January 13, 2000. Although this case was brought before the District Court and taken through the paces of the judicial proceedings at this level, the District Court's errors and judicial decisions that were capricious and arbitrary in nature acted to effect a prejudicial harm to the cause of justice and to leave the plaintiff injured and un-whole. Plaintiff respectfully submits the additional points that are judicially sound reasons for appeal.

JUDICIAL ERRORS BY DISTRICT COURT

1. At the District Court level, then Magistrate Judge Haynes, in a rush to judgment erred to deprive pertinent information presented by and through Plaintiff's *pro se* motions before the District Court – Motion to Stay All Proceedings Regarding Plaintiff's Attorney's Motion to Withdraw/Preserve Attorney's Lien on Proceed; and Plaintiff's Response to Motion to Withdraw by Plaintiff's Attorney, Motion to Preserve Attorney's Lien on Proceeds, Motion to Deposit Judgment Proceeds with the United States District Court Clerk.

Whereas, Plaintiff's *pro se* motions filed in District Court were submitted to present pertinent evidence to show additionally that attorney of record, Mr. David Lyons, had filed a false and misleading motion against Plaintiff's wishes (verbal, written via fax and certified mail
and by phone conversation) to let the appeal stand, and the Sixth Circuit Court provide rulings. Noting that a false *Stipulation to Dismiss* submitted by Mr. Lyons was done in bad faith and against the Plaintiff's wishes.

2) The District Court (Magistrate Judge) in a rush to judgment erred by discounting Plaintiff's motions (before the District Court) to stay dismissal of Plaintiff's attorney at the District level, since attorney's alleged conduct of acting in bad faith through submission of false and misleading motion, documents, and conveying false reports (written and verbal) to plaintiff for the purpose of self gain through attorney fees that were a part of Plaintiff's *pro se* motions at the District Level.

3) The District Court (Magistrate Judge) in a rush to judgment erred by ordering Plaintiff to appear for a status conference one work day before the Magistrate Judge was to be sworn in as a District Judge, admonishing plaintiff that a status conference would be held to ascertain the status of the case, whereby proceeding became a pre-trial hearing after the fact.

4) The District Court (Magistrate Judge) in a rush to judgment erred by using the Assistant Attorney General as Court reporter, who was counsel for the opposing

party (and not a neutral party). Further, the Assistant Attorney General who had at the same time during the so call status conference of December 3, 1999; already put in a motion along with Plaintiff's attorney of record, David
Lyons (against Plaintiff's wishes to not dismiss the appeal at the Sixth Circuit, which would automatically dismiss the appeal without merit review. Which was wrong,
morally unjust, judicially unsound and a means to enslave Plaintiff, *pro se*, who is unschooled in the law, and to deny procedural due process before the Court as a *pro se* Appellant.

5) The District Court (Magistrate Judge) in a rush to judgment erred by ambushing the pro se Plaintiff at the so called status conference that was in reality a pre-trial hearing (after the fact), whereby Plaintiff's pro se motions before the District Court were not acknowledged or considered in the District Court's Order of January 13, 2000.

6) The District Court (Magistrate) through an act of the Court's judicial arm allowed motions before the Court Plaintiff's counsel's Motion to Preserve Attorney's Lien on Proceeds, Motion to Deposit Judgment Proceeds with the USDC Clerk; and Counsel for Plaintiff's Motion to Deposit Judgment Amount and Attorney's Fees into Escrow while Plaintiff was proceeding pro se, but disallowed Plaintiff's motion. And further, the Court who has controlling authority of the Court to ensure a *pro se* litigant's rights failed to set forth or assure to *pro se*

litigant the knowledge of rights to appeal, cross-appeal and consolidation of appeal; as well as the knowledge that a litigant's rights cannot be waive unless the person has a foreknowledge of those rights. Such judicial assurance remains with the Court

CONCLUSION

Plaintiff's prays that this Court will undertake on appeal *pro se* litigant's aforementioned claims. Plaintiff pro se further prays that considerations be weighed with the measure of judicial findings which accounts for the legal availability of ensured rights and leniency allowable with *pro se* litigants. Plaintiff *pro se* prays that for the cause of justice, that judicial procedure and due process be followed and or rectified and that all rights of the *pro se* litigant, not knowingly waived, are instated. Whereby, if this Honorable Court grants Plaintiff's *pro se* Motion to Appeal, Plaintiff *pro se* prays that this Court would grant counsel in these proceedings as Plaintiff has expended funds on two separate attorneys and desires legal counsel from the Count.

The Plaintiff pro se therefore, so moves this court to set aside the January 13, 2000 ORDER OF Magistrate Judge William Haynes (now a District Judge) and allow a review of all pleadings and available evidences on its merits.

Respectfully submitted,

Angela S. Mayers
ANGELA S. MAYERS, Plaintiff *pro se*
1525 Naples Avenue
Nashville, Tennessee 37207
W(615) 963-5545 H(615) 865-5572

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded by first class, postage prepaid mail on this 22 day of January, 2000 to:

Ms.Leslie Bridges, Assistant State Attorney General
Civil Litigation and State Services Division
425 Fifth Avenue North
Cordell Hull Building – Second Floor
Nashville, TN 37243-0490

and

Mr. David Lyons
601 Woodland Street
Nashville, Tennessee 37206

Angela S. Mayers
Angela S. Mayers, *pro se*

NOTARY

Name *Sue Lanier* **DATE** *1/21/2000*

Commission Expiration My Commission Expires May 28, 2003

P/OTHER Ex. # 10

Robert & Angela Mayers, Sr.
1525 Naples Avenues
Nashville, Tennessee 37207

Home Phone: (615) 865-5572
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MEMORANDUM OF LAW

Chancellor Kilcrease
IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE
401 Metro Courthouse
Nashville, Tennessee 37201

RE: *David Lyons v. Angela Mayers and the State of Tennessee*
CASE No. 00-332-I and Senior Counsel Leslie Bridges' Proposed Order of Dismissal

As it stands and as it has been stated in the record, the U. S. Sixth Circuit Court of Appeals En Banc Review Court **(Reference Case No. 00-5123)** has jurisdiction over the subject-matter on the issues in the above cited case which is presently being argued at the En Banc Review. Therefore, all correspondence pertaining to any relevant issues that is being argued in this case matter must come by way of motions, pleadings and or by Memorandum of Law, direct to the U.S. Sixth Circuit Court of Appeals En Banc Review

where jurisdiction lies and will remains until such times the En Banc Court rules in my favor and/or until after the Supreme Court's decision. Therefore, Honorable Chancellor Kilcrease, you must be in compliance with the statutory rules and principles that are set forth by the Tennessee Rules of Civil Procedures Annotated Rule (41) and Tennessee Rules of Civil Procedure 12.08 as quoted in rule (2):

> "that, whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action."

It is not in the opinion of the Honorable Judge to state that he has jurisdiction over the subject-matter, whereby the Honorable Judge does not cite any statutory rules that will grant him any such jurisdiction while same subject-matter issues are pending in a higher court. The Appellant in the U. S. Sixth Circuit Court of Appeals will not respond to any pleadings, motions, Orders, Decisions, Rulings, and or Judgment coming from any lower court while these matters are pending in a higher court. It is advised that any lower court will adhere to the statutory rules of the Appellate proceedings in the U. S. Sixth Circuit Court of Appeals En Banc Review and/or Supreme Court Review.

Respectfully Submitted,

Angela S. Mayers
ANGELA S. MAYERS, *PRO SE* LITIGANT

This 3rd day of July, 2000.

cc: The United States Sixth Circuit Court of Appeals
En Banc Review Court
Attorney Eddie Davidson, *Counsel for Plaintiff (Reference Case # 00-332-I)*
Senior Counsel Leslie Bridges, *Counsel for Appellees (Reference Case # 00-5123)*

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent by first class mail to: Leslie Bridges, Assistant State Attorney General, Civil Litigation and State Services Division, 425 Fifth Avenue North, Cordell Hull Building – Second Floor, Nashville, TN 37243-0490 on this 3rd day of July 2000.

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